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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

WILLIAM J. LAWS,

Plaintiff and Appellant,

v.

CAROLYN LAWS,

Defendant and Respondent.

A142743

(Solano County
Super. Ct. No. FPR039547)

In this case concerning the probate of a will, William J. Laws appeals from an order requiring him to file an amended accounting. He contends the court erred in finding that certain property should be listed as an asset of the probate estate rather than a trust estate. We will affirm the order.

I. FACTS AND PROCEDURAL HISTORY

Medora D. Laws (Medora) created the Medora D. Laws Trust on July 16, 1997. The trust left the assets of the trust estate, identified on the Schedule of Trust Assets, to her two sons, George E. Laws, Jr. (George) and William Joseph Laws (William), in equal shares.¹ William was named the successor trustee. The trust assets did not include real property.

¹ Except when the names are contained in a title or quotation, we will refer to Medora D. Laws, George E. Laws, Jr., William Joseph Laws, and Carolyn Laws by their first names for the sake of clarity and brevity, without disrespect.

Medora also created a Last Will and Testament on July 18, 1997. The will provided that her entire estate was bequeathed to the Medora D. Laws Trust—specifically, to “William Joseph Laws as Trustee of the Medora D. Laws Trust, to be held, managed and disposed of in accordance with the provisions of said trust.” The will nominated William as executor.

Medora died on December 5, 2001.

A. Probate Case (Solano County Superior Court Case Number FPR 039547)

On November 6, 2002, William filed a Petition for Probate of Will and for Letters Testamentary. The will was admitted to probate and letters testamentary issued in February 2003.

On January 23, 2004, George—co-beneficiary of the estate—signed a written waiver of the “filing and settlement of a final account,” along with a quitclaim deed regarding certain real property on Terrace Beach Drive in Vallejo.

On March 24, 2004, William filed an Inventory and Appraisal with the court, representing that the only asset of the probate estate was the Terrace Beach Drive property. On May 19, 2004, William filed with the court George’s waiver of account and quitclaim deed to that property.

By July 2004, William filed a Petition for Final Distribution.

On March 1, 2005, the court issued a written order directing that, pursuant to the will, the executor (William) shall distribute the estate to William as trustee of the Medora D. Laws Trust, to be held, managed and disposed of in accordance with the provisions of the trust. William was ordered to prepare a judgment in conformance with the order, and the matter was continued for “petition for final distribution.”

On May 3, 2005, a judgment in the probate case was entered accordingly: pursuant to Medora’s will, “the Executor shall distribute the estate to William J. Laws as successor trustee of the Medora D. Laws trust to be held, managed and disposed of in accordance with the provisions of said trust.”

In March 2007, George died. Carolyn Laws (Carolyn) was appointed the qualified personal representative of his estate in July 2010. In October 2010, Carolyn filed a revocation of waiver in the probate case, revoking the waiver of accounting that George signed in January 2004.

On June 4, 2012, William filed a Final Account of Personal Representative of the Estate of Medora D. Laws in the probate case.

On February 25, 2014, Carolyn objected to William's petition for final distribution and request to close the probate estate. She argued they should be denied because of William's self-dealing, questionable inventory and appraisal, and failure to adequately report his activities as executor and render a final accounting, as well as her revocation of George's waiver of account and her allegation that the May 2005 judgment was obtained under false and misleading circumstances.

B. Trust Case (Solano County Superior Court Case Number FPR 045231)

Meanwhile, on March 6, 2012, Carolyn instituted a new action by filing a Petition to Compel Trustee to Account, seeking an order compelling William to account to the beneficiaries of the Medora D. Laws Trust for his actions as trustee since Medora's death. Carolyn also filed a notice that this new trust case was related to the probate case.

On April 12, 2012, the court issued an Order Compelling Trustee to Account, requiring William to file an account of the trust since December 5, 2001. William thereafter submitted multiple accountings.

On June 5, 2012, William filed a Final Account of Personal Representative of the Estate of Medora D. Laws in the trust case.² He also filed a Summary of Account on November 21, 2012. Carolyn objected to William's Summary of Account on March 27, 2013. William filed a response and additional account statements in May 2013, along with further documents in May 2014.

² It is not clear whether this document was identical to the document of the same name that was filed on June 4, 2012, in the probate case, since the document filed in the probate case is not in the appellate record.

C. Court's Orders in Both Cases

On July 10, 2014, a status conference was held jointly in the probate case and the trust case. The court adopted the identical tentative order in each case, essentially requiring William to account accurately for the assets in the probate estate and trust estate, and particularly requiring him to include the Terrace Beach Drive property as a probate asset rather than a trust asset. The court's formal written orders, filed on July 10, 2014, were tailored to the respective proceedings.

1. Probate Case Order

In the probate case relevant to this appeal, the court ruled: "The court denies approval of William Laws' Final Account of Personal Representative of the Estate of Medora D. Laws filed on June 4, 2012. No later than July 31, 2014, William Laws is ordered to file and serve an amended accounting for the probate estate in compliance with all requirements set forth in Probate Code sections 1060 et seq., which addresses or corrects the following" The court then specified numerous inadequacies of the Final Account.

With respect to the Summary of Account, the court stated: "The accounting lists all the trust assets as part of the probate estate. Because trust assets are not part of the probate estate, all the trust assets must be removed and handled in a separate accounting filed in the trust case."

With respect to Schedule H, the court stated: "The accounting purports to show a distribution of the Terrace Beach Drive property in Vallejo to William Laws and George Laws. However, the court has not approved such a distribution; moreover, the property must be distributed to the trust in conformance with the will. *The property must be reflected as an existing and current asset of the probate estate.*" (Italics added.)

William filed an appeal from the order of July 10, 2014, in the probate case, which we address in this opinion. (See Prob. Code, §§ 1300, 1304.)

2. Trust Case Order

In the trust case, the court ruled similarly: “The court denies approval of William Laws’ petition to approve his trust account filed on November 21, 2012. No later than July 31, 2014, William Laws is ordered to file and serve an amended accounting for the trust in compliance with all requirements set forth in Probate Code sections 1060 et seq., which addresses or corrects the following” Akin to the ruling in the probate case, the court concluded that the Terrace Beach Drive property was not part of the trust estate, but still part of the probate estate, because the court had not approved William’s accounting or petition for final distribution in the probate case.

William did not file an amended accounting. Instead, he filed an appeal from the order of July 10, 2014, which we address in a separate opinion (case No. A142744).

II. DISCUSSION

In a probate case, the property subject to a will generally may not be distributed until the court has approved the personal representative’s final account and entered an order of final distribution. (Prob. Code, § 11641; see § 10951 [personal representative shall file final account and petition for final distribution when estate is in condition to be closed].) Final distribution of the estate may be ordered when the representative’s final account has been settled (or waived) and all debts have been paid or addressed. (See Prob. Code, § 11640, subd. (a); *In re Estate of Spreckels* (1913) 165 Cal. 597, 606-607.) For the final account to be approved, it must meet the requirements of Probate Code section 1060, including the requirement that it contain a financial statement setting forth the property on hand at the beginning of the account period and its value. (Prob. Code, §§ 1061, subds. (a)(1) & (b), 1063, subd. (a).) Once the order settling the final account becomes final, the representative may pay and distribute the property as required by the order. (Prob. Code, § 11750, subd. (a).) To effect the distribution of real property, the representative must also record appropriate documents. (See, e.g., Prob. Code, §§ 7263, 11751.)

In the matter before us, the court rejected William's Final Account. Among other things, the court noted that the Final Account must include the Terrace Beach Drive property as a current asset of the probate estate, because that property has not yet been distributed to the Trust, since the court has not approved its distribution to the trust in an order of final distribution.

William argues, essentially, that the court *did* approve the distribution to the trust in the May 2005 judgment. He thus asserts: "The court erred in issuing the order stating that it had not approved of the distribution of the Terrace Beach Drive Property to the trust and that the property was not distributed to the trust in conformance with the will, and that the property must be reflected as an existing and current asset of the estate, and that any proposed distribution must show that the entire probate estate was not distributed entirely to the trust. [¶] THEREFORE: the court is asked to reverse these orders and order that the Terrace Beach Drive Property continue as trust property for accounting purposes and all other purposes." Similarly, in his reply brief, William argues: "The trial court erroneously issued a minute order stating that trust property is estate property."

William fails to show that the court erred. Title to the Terrace Beach Drive property was never in the name of the Trust, the property was not included in the list of assets of the trust, and it is not trust property. Instead, it is property of the probate estate. Although the court's May 2005 judgment in the probate case ruled that all property of the probate estate shall be distributed by the executor to the Medora D. Laws Trust, that did not automatically turn the Terrace Beach Drive property into trust property. It merely explains what will happen to the Terrace Beach Drive property *after* approval of the final account, order of final distribution, and termination of the probate case.

Furthermore, the May 2005 judgment was not in itself an order of final distribution since, among other things, no final account had been filed (much less approved) and the May 2005 order itself expressly continued the matter *for* the "petition for final distribution." (See *In re Estate of Spreckels*, *supra*, 165 Cal. at pp. 606-607.) Nor does William establish that the May 2005 judgment met the requirements for an order of partial or preliminary distribution.

Having fully considered William's arguments in his opening brief and reply brief in light of the record, we conclude he fails to establish error.

III. DISPOSITION

The order is affirmed.

NEEDHAM, J.

We concur.

JONES, P.J.

BRUINIERS, J.